

PUBLIC VERSION - REDACTED

ILLINOIS BELL TELEPHONE COMPANY

III. C. C. No. 20, Part 19, Section 1  
9<sup>th</sup> Revised Sheet 1

Section 2  
12<sup>th</sup> Revised Sheet 1

Section 12  
2<sup>nd</sup> Revised Sheet 1

Section 16  
4<sup>th</sup> Revised Sheet 1

Section 18  
4<sup>th</sup> Revised Sheet 1

Section 20  
6<sup>th</sup> Revised Sheet 1

Filed: March 14, 2008  
Effective: April 28, 2008

Recommendation: That the Filing be Suspended

TELECOMMUNICATIONS DIVISION TELEPHONE RATE MEMORANDUM

Capsule Summary

By this filing, Illinois Bell Telephone Company ("IBT") withdraws all of the remaining portions of its tariff for the provision of unbundled network elements ("UNEs").

This filing is classified as noncompetitive, and it is Staff's recommendation that the filing be suspended.

## Background

Illinois PUA Section 13-801 imposes several obligations concerning network interconnection and provision of UNEs that “exceed or are more stringent” than comparable obligations imposed pursuant to Section 251 of the Telecommunications Act of 1996. The PUA Section 13-801 obligations apply only to telecommunications carriers regulated under an alternative regulation plan by this Commission. Since AT&T is the only carrier so regulated in Illinois, it is the only carrier subject to these Section 13-801 obligations. AT&T historically has satisfied these obligations through tariffed service offerings made available to other carriers.

On April 17, 2007 the U.S. District Court for the Northern District of Illinois issued an Order<sup>1</sup> enjoining the Illinois Commerce Commission from enforcing Section 13-801 of the Public Utilities Act (or any ICC order implementing Section 13-801, or any tariff implementing such ICC order or Section 13-801), to the extent these would require IBT to:

1. Unbundle local circuit switching, switching related elements, OCn-level loops, [OC-n level] dedicated transport, dark fiber loops, entrance facilities, and feeder subloops;
2. Furnish CLECs with preexisting combinations of network elements that include any one or more of the network elements or combine network elements for CLECs;
3. Unbundle splitters;
4. Provide terminating access on an unbundled basis or unbundle the terminating switch.

As a direct result of this District Court Order, on May 5, 2007, pursuant to special permission granted by the Commission on May 7, 2007 in Docket No. 07-0274, IBT cancelled those sections of its UNE Tariff related to unbundled local switching, UNE-P, and other UNEs that were the subject of the April 17, 2007 District Court Order.

On January 28, 2008, the U.S. District Court for the Northern District of Illinois modified and extended its April 17, 2007 Order.<sup>2</sup> This modified order enjoined the Illinois Commerce Commission from enforcing Section 13-801 of the Public Utilities Act (or any ICC order implementing Section 13-801, or any tariff implementing such ICC order or Section 13-801) to the extent these would require IBT to:

1. Unbundle local circuit switching, switching related elements, OCn-level loops,

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<sup>1</sup> Illinois Bell Telephone Company v. Hurley, et al, Case No. 05 C 1149, April 17, 2007.

<sup>2</sup> Memorandum Opinion and Order in Illinois Bell Telephone Company v. Hurley, et al, Case No. 05 C 1149, January 28, 2008.

- [OC-n level] dedicated transport, dark fiber loops, entrance facilities, or feeder subloops;
2. Unbundle DS1 or DS3 loops, or DS1, DS3 or dark fiber dedicated transport either (i) in or between wire centers that the ICC, the FCC, or a court of competent jurisdiction has determined to satisfy the applicable federal non-impairment criteria set forth in 47 C.F.R. § 51.319(a)(4), (a)(5), or (e)(2), including wire centers designated as non-impaired pursuant to the [FCC Wire Center Designation Order] or (ii) at quantities exceeding the applicable federal limits set forth in 47 C.F.R. § 51.319(a)(4), (a)(5), or (e)(2);
  3. Furnish CLECs with preexisting combinations of network elements that include any one or more of the network elements or items described in sub-paragraphs 12(a), (b), (c) or (d) [of the U.S. District Court for the Northern District of Illinois' January 28, 2008 Memorandum Opinion and Order], or combine such network elements for CLECs;
  4. Unbundle splitters;
  5. Provide terminating access on an unbundled basis or unbundle the terminating switch.

As a result of this January 28, 2008 Order of the District Court, IBT is seeking to cancel those sections of its UNE Tariff related to high-capacity loops and transport and other UNEs addressed in the January 28, 2008 Order, but not addressed in the April 17, 2007 Order.

Beyond this, however, IBT seeks in the instant filing to withdraw **all** remaining portions of its tariff related to the provision of unbundled network elements ("UNEs").

#### Details of the Filing

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#### Staff Preliminary Analysis

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<sup>5</sup> These include Wisconsin Bell, Inc. vs. Bie et al., 340 F.3d 441 (7<sup>th</sup> Cir. 2003); Verizon North, Inc. vs. Strand, et al. 367 F.3d 577 (6<sup>th</sup> Cir. 2004); and Verizon North, Inc. vs. Strand, et al., 309 F.3d 935 (6<sup>th</sup> Cir. 2002),

- [illegible]

[illegible]

## Demand and Revenue Effects

The demand and revenue effects are unknown.

## Cost Support

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<sup>6</sup> GlobalCom, Inc. v. Commerce Comm'n, et al., 347 Ill. App. 3d 592; 806 N.E.2d 1194; 2004 Ill. App. Lexis 232; 282 Ill. Dec. 606 (1<sup>st</sup> Dist. 2004).

Customer Impact

Competitive Local Exchange Carriers ("CLECs") will not be able to purchase UNEs from AT&T tariffs or be able to obtain UNEs through interconnection agreements making reference to AT&T tariffs.

Notice

Notice has been provided in accordance with 83 Ill. Adm. Code Part 255.

Comments by Other Staff

None.

Recommendation

It is the recommendation of the Telecommunications Division that the filing be suspended and the matter set for hearing.

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